

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Criminal No.
03-10349-WGY

* * * * *
UNITED STATES OF AMERICA
v.
JUAN MONTERO
* * * * *

SENTENCING EXCERPT

BEFORE: The Honorable William G. Young,
District Judge

1 Courthouse Way
Boston, Massachusetts

September 12, 2005

1 **THE COURT:** Mr. Hector Guerra, in consideration of
2 the factors which the Court must take into account under
3 Section 3553, the information from the United States
4 Attorney, your attorney, the probation officer and yourself,
5 this Court sentences you to 90 months in the custody of the
6 United States Attorney General, the sentence on each count,
7 and that is the sentence on each count, to run concurrent
8 one with the other.

9 The Court imposes upon you no fine due to your
10 inability to pay a fine. The Court imposes upon you a
11 special assessment of \$200.

12 The Court imposes upon you three years of
13 supervised release with the following special conditions.
14 That if you are deported you are to leave the United States
15 not to be committed -- not to return without the prior
16 permission of the Secretary of the Department of Homeland
17 Security.

18 You're prohibited from possessing a firearm or
19 other dangerous weapon. You are to submit a DNA sample.
20 You're to use your true name, and you're prohibited from the
21 use of any aliases or other false identifiers. You will
22 have credit toward the service of that sentence from
23 December 4th, 2003 to the present.

24 Let me explain the sentence to you. You are guilty
25 of an extraordinarily serious drug offense against the laws

1 of the United States. The sentence I've imposed upon you is
2 commensurate with the crime that you have committed. You
3 know that were it not for your efforts to make things right
4 the sentence I would impose upon you would be longer still.
5 This is a sentence of seven years and six months.

6 Now, having said that, I do take into account that
7 you have been a good provider to your family. You are a
8 worker. And it is your great good fortune that you have
9 people who love you and care about you a great deal.

10 Mr. Salsberg argues properly that it is you who's
11 thrown it all away. Now you'll be excluded from the United
12 States never to return. If there is justification to the
13 sentence I have imposed upon you, and I believe that there
14 is, it is the enormity of the crime, the drug crime that you
15 have committed and the harm that you have visited on other
16 people.

17 That's the sentence of the Court.

18 I tell you, you have the right to appeal from any
19 findings or rulings the Court has made against you, and if
20 you appeal and if your appeal is successful in whole or in
21 part, the case will be resentenced before another judge.

22 I further say that while I have, as is my practice,
23 tried to fashion a just and a fair sentence based upon all
24 the data that is before me, I do not foreclose revisiting
25 the sentence were the government to choose to make a motion

1 to revise and revoke.

2 And lastly, though it's a parenthetical, I want to
3 praise your attorney, Mr. Salsberg, for his candid and
4 informative argument and to respond on the record.

5 I expect from government counsel exactly the
6 sentence which the Executive Branch of government seeks to
7 have visited on the offender. And if I differ downward, or,
8 in rare occasions, upward, that's my responsibility as I
9 believe that the judicial officer expresses the cool and
10 reflective conscience of the community as a whole.

11 Defense counsel has, in my eyes, and I did only a
12 few defense cases as a lawyer, and now that was some years
13 ago, has a very difficult position. And you are right,
14 sentencing is the hardest thing that a judge does. And
15 while you may gain experience over the years it becomes no
16 easier, and I have no confidence that I know more about it
17 than I knew years ago.

18 And so I always expect defense counsel to make some
19 argument on behalf of the offender. And that argument, if
20 it departs from the range that I have in mind, plays less of
21 a role than otherwise it would. I will say in all candor
22 that your argument so ably made on Mr. Guerra's behalf does
23 not do that, and I consider it very carefully.

24 And I simply want to emphasize that you are right
25 that so long as you are within the range counsel's candid

1 assessment of the appropriate sentence is very informative
2 to the Court. And I really do take it into account in every
3 case, as I take into account the recommendation of the
4 probation officer. But ultimately a criminal sentence is
5 the responsibility of the sentencing judge, a matter which I
6 take very seriously. But I want to thank you for the
7 argument. The argument's very helpful.

8 All right. Mr. Guerra's remanded to the custody of
9 the marshal.

10 Yes?

11 **MR. SALSBERG:** Just make two brief requests, your
12 Honor. One with regard to the mandatory assessment, that he
13 be allowed to pay that during the course of his
14 incarceration.

15 **THE COURT:** It is so ordered.

16 **MR. SALSBERG:** Secondly, your Honor, he's asked me
17 if the Court could recommend that he be incarcerated at Fort
18 Devens. I don't know if that's a possibility or not.

19 **THE COURT:** I will make that recommendation but
20 that's all it is, a recommendation.

21 **MR. SALSBERG:** Thank you.

22 **THE COURT:** But I make it in all sincerity. I
23 don't know how many beds and the hierarchies that they
24 follow. But I make the recommendation. I don't qualify it.
25 That's the recommendation of the Court. We'll recess.

1 **THE CLERK:** All rise.

2 **MR. SALSBERG:** Thank you, your Honor.

3 **THE CLERK:** Court is in recess.

4 (Whereupon the matter concluded.)